

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION
No. 7:20-CV-00059-FL

HENRY CUMBEE,
Plaintiff,

KILOLO KIJAKAZI,
Commissioner of Social Security,
Defendant.

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) ORDER APPROVING ATTORNEY
) FEES PURSUANT TO 42 U.S.C. § 406(b)
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Plaintiff's counsel filed a motion for approval of attorney's fees under section 206(b) of the Social Security Act, 42 U.S.C. § 406(b), in the amount of \$72,202.00. Attorney's fees under section 206(b) are paid from past-due benefits awarded to a successful claimant. 42 U.S.C. § 406(b). Plaintiff has previously been awarded attorney's fees under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412, in the amount of \$11,800.00 (\$4,900.00 and \$6,900.00).

Defendant filed a response, stating that under *Gisbrecht v. Barnhart*, 535 U.S. 789 (2002), it is the duty of the Court to determine a reasonable fee.

It is ORDERED that Plaintiff's counsel be awarded fees under 42 U.S.C. § 406(b) in the amount of \$72,202.00, and refund to Plaintiff the smaller award (\$11,800.00) between this amount and the EAJA award.

This 28th day of April, 2023.


LOUISE W. FLANAGAN

UNITED STATES DISTRICT COURT JUDGE